

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

QUINCY MOORE,

Defendant.

8:09CR32

MEMORANDUM AND ORDER

This matter is before the court on the defendant's motion to reconsider, Filing No. [147](#). In an earlier order, this court denied the defendant's motions for a reduction under 18 U.S.C. § 3582(c)(2). Filing No. [140](#). The defendant urges the court to consider the case of *United States v. Mihm*, 134 F.3d 1353, 1354-56 (8th Cir. 1997). In *Mihm*, the Eighth Circuit Court of Appeals concluded that the 18 U.S.C. § 3553(f) safety valve, which applies to sentences "imposed on or after" September 23, 1994, could be applied in a § 3582(c)(2) resentencing that occurred after that date. *Id.* at 1355. Unfortunately, the holding in that case has no application to Moore. Moore was not resentenced. He remains subject to his original sentence. The retroactive amendment to the Guidelines for crack offenses and the Fair Sentencing Act of 2010 ("FSA") do not affect a mandatory minimum sentence. *United States v. Logan*, 710 F.3d 856, 860 (8th Cir. 2013). Accordingly, the court finds Moore is not entitled to relief.

IT IS ORDERED that the defendant's motion for reconsideration, Filing No. [147](#), is denied.

DATED this 30th day of October, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge